IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

O.P.No. 11353 of 1998(B)

PETITIONERS:

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1. K. GOVINDAN, AGED 55 YEARS,
   S/o.KANNAN, UPSA (RETIRED)
   IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

2. T.V.DEVI, AGED 56 YEARS,
   UPSA (RETIRED), IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

3. SMT. DAISY KURUVILA, AGED 47 YEARS,
   W/o. KURUVILA, HEADMISTRESS,
   IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

4. K.A.GOPALAN, AGED 54 YEARS,
   UPSA , IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

5. K..V.BALAKRISHNAN, AGED 48 YEARS,
   UPSA , IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

6. K.E.MOHAN LAL, AGED 54 YEARS,
   DRAWING TEACHER,
   IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

7. SMT. AMMALU, AGED 50 YEARS,
   MUSIC TEACHER,
   IRINGAL UPPER PRIMARY SCHOOL,
   THALIPARAMBA.

BY ADV. SRI.P.V.MOHANAN

RESPONDENTS:

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1. THE MANAGER, IRINGAL UPPER PRIMARY SCHOOL,
   PERIYARAM, THALIPARAMBA.

2. ASSISTANT EDUCATIONAL OFFICER,
   THALIPARAMBA NORTH.

3. ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTION,
   THIRUVANANTHAPURAM.

4. THE UNDER SECRETARY,
   GENERAL EDUCATION (P) DEPARTMENT,
   GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM

BY ADV. SRI.P.V.MADHAVAN NAMBIAR
GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.27320 OF 1998 IN O.P.NO. 11353 OF 1998

DISMISSED

15.1.2007 Sd/- S.SIRI JAGAN, JUDGE

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE APPLICATION DATED 7.6.1993 BY THE IST PETITIONER.

EXT.P2: COPY OF THE MEMO OF CHARGES DATED 25.7.1995.

EXT.P3: COPY OF THE PROCEEDINGS DTD.1.2.1996, ISSUED TO THE IST PETITIONER.

EXT.P4: COPY OF THE PROCEEDING DATED 1.2.1996 ISSUED TO THE 2ND PETITIONER.

EXT.P5: COPY OF THE PROCEEDING DATED 1.2.1996 ISSUED TO THE 3RD PETITIONER.

EXT.P6: COPY OF THE PROCEEDING DATED 1.2.1996 ISSUED TO THE 4TH PETITIONER.

EXT.P7: COPY OF THE PROCEEDING DATED 1.2.1996 ISSUED TO THE 6TH PETITIONER.

EXT.P8: COPY OF THE PROCEEDING DATED 1.2.1996 ISSUED TP THE 7TH PETITIONER.

EXT.P9: COPY OF THE PROCEEDING DATED 24.2.1996 ISSUED TO THE 5TH PETITIONER.

EXT.P10:COPY OF THE PETITION SUBMITTED BY THE 1ST PETITIONER.

EXT.P11:COPY OF THE PROCEEDINGS DATED 21.2.1998 BY THE 4TH RESPONDENT.

EXT.P12:COPY OF THE ORDER DATED 26.6.1998 ISSUED BY THE 2ND RESPONDENT.

TRUE COPY

P.A.TO JUDGE

S.SIRI JAGAN,J

O.P.NO.11353 OF 1998

DATED THIS THE 15TH DAY OF JANUARY,2007

JUDGMENT

The petitioners are aided school teachers. Petitioners 4 and 6 retired from service 31.1.1999 and 28.2.1999 respectively. There was a dispute in the school regarding who is to be appointed as the Headmaster. The Manager appointed one Smt.Swarnavalli, but the department did not approve the appointment. Later on another teacher was approved as the Headmistress. In the meanwhile Manager initiated some disciplinary proceedings against the teachers, on some charges which according to the petitioners are directly related to the dispute regarding who should be the Headmistress of the school. The same resulted in imposing on the petitioners the punishment of permanently withholding the increment for two years with effect from 1.2.1996. Ultimately, by Ext.P11 order of the Government the same was reduced to temporary withholding of increment for six months with prospective effect. Ext.P11 is dated 21.2.1998. Pursuant to the same the Assistant Education

Officer passed Ext.P12 order whereby the punishment of withholding of increment of six months with effect from 1.7.1998 was awarded to the petitioners. Now because of the passage of time the petitioners except the fourth and sixth petitioners are not seriously affected by the punishment. I am also satisfied that the punishment now imposed as per Ext.P11 and P12 cannot be said to be arbitrary or unreasonable, especially, since the punishment now imposed is only temporary withholding of increment for six months. Therefore, I am not inclined to interfere with the punishment imposed on the petitioners.

2. However, the petitioners 4 and 6, who retired on 31.1.1999 and 28.2.1999 has another grievance. The proceedings started long ago and the original punishment was imposed sometime in 1996. If the present punishment was to be implemented as on that date, they would not have been affected except to the extent of the losing of increment for six months temporarily. But since now by Ext.P12 the punishment is to start from 1.7.1998, the salary for the ten months prior to their retirement, which would be the basis for calculation of their pension would be considerably reduced, as a result of which their pension also would be correspondingly reduced. They would contented if the punishment order were to be implemented as on

the original date of punishment their pension would not be reduced. I am satisfied that the petitioners 4 and 6 should not be prejudiced on account of the delay in finalising the disciplinary proceedings. Therefore, I direct that without any change in the fixation of salary for the purpose of pension, the monetary equivalent of the six months' increment should be recovered from the petitioners 4 and 6. In other words, their salary for the purpose of computation of pension shall not be reckoned taking into account the punishment, although, the monetary equivalent of punishment shall be recovered from them. The pension shall be fixed as if the punishment has been imposed with effect from the original date of punishment in 1996, so that there would not be any reduction in their pay for the last ten months prior to their date of retirement. The pension of petitioners 4 and 6 would be recomputed accordingly and arrears shall be disbursed within two months from the date of receipt of the copy of this judgment.

Original Petition is disposed of as above.

S.SIRI JAGAN,JUDGE

dvs